



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

Ms. Barbara S. Taylor, Director
Office of Environmental Health
West Virginia Department of Health and
Human Resources
Capitol and Washington Streets
1 Davis Square, Suite 200
Charleston, West Virginia 25301-1798

Dear Ms. Taylor:

Enclosed is the U.S. Environmental Protection Agency Region III (EPA) review of the West Virginia drinking water program for State Fiscal Year 2011. This review covers the Public Water System Supervision Program (PWSS).

The enclosure consists of a comprehensive report and the Semi Annual SFY 2011 Program Guidance/Reporting Checklist and evaluation tool (without attachments). This review incorporates information from the semi-annual progress reports submitted by the West Virginia Environmental Engineering Division (EED), telephone and email follow-up, and communication within EPA covering the activities from July 1, 2010 through June 30, 2011

EPA would like to recognize West Virginia's drinking water program on its success in obtaining primacy for the Lead and Copper Rule Short Term Revisions and Ground Water Rule. However EPA does have concern with the high turnover of staff within EED. This is discussed further in the report.

In addition to the shared responsibility placed on responding to acute health contaminants at all public water systems, EPA will focus FY 2012 program activities on the continuation of emergency preparedness, new rule development and adoption, continuation and improvement of operator certification programs and continued improvement of data quality in SDWIS. EPA is committed to working with you on these activities to achieve these goals. If you have any questions regarding the enclosed review, please do not hesitate to call me at (215) 814-5757 or have your staff contact Wanda F. Johnson at (215) 814-3249.

If you have any questions regarding the enclosed report, please do not hesitate to call me at (215) 814-5757 or have your staff contact Wanda F. Johnson at (215) 814-3249.

Sincerely,

Victoria P. Binetti, Associate Director
Office of Drinking Water & Source Water
Protection (3WP30)

Enclosures

bcc (without encls.):

W. Johnson (3WP21)

A. Meadows (3WP21)

M. Brewster (3WP50)

J. Pine (3WP30)

M. Conicelli (3WP22)

Is anyone missing from this list?

**Review of the
West Virginia Department of Health and Human Resources
Bureau of Public Health
Office of Environmental Health Services
Environmental Engineering Division
Federally Funded Drinking Water Activities**

Introduction

This review covers the activities conducted under Public Water System Supervision Program (PWSS), Drinking Water State Revolving Fund (DWSRF) set-aside funded activities, Water Protection Coordination (Security) and Operator Certification Expense Reimbursement Grant federally funded assistance agreements. The report is presented in two parts: 1) a discussion of the Environmental Engineering Division (EED) strengths and those areas where the EPA has concerns, as well as any recommendations, and 2) a detailed checklist that provides the mid-year status on each commitment/activity for the EED. WVDHHR is invited to submit an addendum to this report if it deems that such an addendum is necessary to clarify or counter EPA's findings.

Purpose of Review

The purpose of this review is to highlight program strengths, areas of progress, and significant accomplishments as well as indicate areas of concern regarding WVDHHR's performance. Where an "Action Item" is identified, EPA will require a response no later than one month after receipt of this report unless specified otherwise. This review is also intended to:

- 1) ensure that the commitments contained in the work plan/application under the grant awards are being performed on schedule,
- 2) ensure that all programmatic terms and conditions are met,
- 3) assess available funding to ensure commitment/activity completion,
- 4) ensure all programmatic, statutory and regulatory requirements are met, and
- 5) ensure equipment purchased under the award is accounted for and properly managed.

Method of Review

This is a review of submitted progress reports from WVDHHR for State Fiscal Year 2011 and Summary of the 2011 WV Assessment from on-site interviews. Consultation included conversations with EPA's Drinking Water Branch, the Office of Standards, Assessments and Information Management, the Office of Infrastructure and Assistance, the Office of Analytical Services and Quality Assurance, Confidential Business Info staff and additional telephone conversations and email follow-up between EPA and WVDHHR.

Contents of this Report

- PWSS Grant
- PWSS Program Activities
- Conclusion, Action Items and Reminders

Public Water System Supervision (PWSS) Program

Financial Summary

EPA approved WVDHHR's SFY'11 PWSS grant in the amount of \$829,550. Last partial award was made April 14, 2011. WVDHHR submitted the final FFR for SFY 2011 to EPA on October 3, 2011. A surplus of \$216,142.63 has been reported. EPA has requested de-obligation and recertification of these funds for use by the state which will supplement possible budget cuts of federal state allotments for SFY '12.

Future Funding

In light of previous federal budget rescissions and the potential for future federal budget cuts, EPA advises WVDHHR to monitor spending closely. When projecting budgets for future PWSS grants, the state should continue to plan appropriately and utilize funds efficiently. Each year, EPA works closely with WVDHHR to ensure that grant funds can be provided as early as possible for state use. EPA is working closely with the EED to ensure timely submission of semi-annual progress reports and future grant applications.

Personnel/Staffing

WVDHHR's EED has been experiencing significant staff turnover. The majority vacancies are due to promotion mobility while some vacancies have been due to retirement or jobs taken outside of WVDHHR. This turnover poses significant challenges in keeping staff sufficiently trained and able to make decisions that are consistent with EED's daily operations and directions.

Reporting Reminder

WVDHHR is reminded to continue reporting on staffing levels especially where vacancies affect work plan activities (e.g., compliance, conducting training and sanitary surveys). This should be a separate narrative or included in progress reports consisting of: 1) a written summary of the status on filling each vacancy (i.e., reviewing applications, interviewing, etc.) and desired time frame for filling positions; 2) a current organization chart to show stability of staffing levels; and 3) a list showing the funding source for all FTEs (filled and vacant), with positions associated to funding source (i.e., PWSS, DWSRF set-aside grant funds, state funds, etc.).

New Regulation Development

Highlight

WVDHHR's primacy revision request for the Lead and Copper Rule Short Term Revisions and Ground Water Rule was tentatively approved by EPA on June 24, 2010. No comments were received during the public comment period. The state's revised rules became final on July 24, 2010.

Groundwater Under the Direct Influence (GUDI) Determinations

GUDI determinations continue to be a priority for the state. WVDHHR's GUDI status of new systems activated or testing new wells after 2004 are; five (5) CWS, ten (10) NTNCs and thirty-seven (37) TNCs. The recent upsurge in the coal industry activity is the primary factor for the increase in request for NTNC systems.

Recommendation

EPA recommends that WVDHHR conduct GUDI determinations on new water sources prior to these systems going on-line.

Reporting Reminder

Continue to provide status of GUDI determinations for all new sources that became active after January 1, 2004. This information can be provided in the semi-annual progress reports or in a separate report as done previously.

Capacity Development

Program activities continue in accordance with the workplan and at a satisfactory level to the Regional Capacity Development Coordinator.

On June 2, 2011, EPA approved the implementation of WVDHHR's Capacity Development Program (CDP). Each year a determination is made as to whether the state's program meets EPA guidance. This determination influences the decision to withhold 20% of the state's Drinking Water State Revolving Fund capitalization grant.

WVDHHR submitted to their Governor a report on the efficacy of the CDP and progress made toward improving the TMF capacity of public water systems in West Virginia. The report was submitted by the due date (September 30, 2011) and was made available to the public. An article on the CDP's achievements was published.

Source Water Assessment & Protection Programs

Over the past year, West Virginia Department of Health and Human Resources (WV DHHR) has been able to significantly increase the number of source water protection activities implemented in the state. This increase is partly due to the creation of Source Water Protection Technical Help Program (SWPTHP), where consulting engineering firms work with state drinking water systems to emphasize the development of protective strategies and to create a source water protection plan. West Virginia has also been able to assist many surface water and ground water community public water systems through source water protection grants. Grants providing source water security are among the most popular in the state. WV DHHR has also continued to build upon existing and new partnerships and inter-agency alliances in order to strengthen its drinking water and source water protection program.

Highlights

- WV DHHR's SWPTHP program has gained momentum and has assisted forty three (43) community public water systems with the development of protection plans.
- The City of Vienna, WV was awarded the EPA Region III 2010 Source Water Protection Award.
- WV DHHR's Source Water Team actively participated in meetings with the River Alert Information Network (RAIN), encouraging interstate collaboration.
- Participated in ORSANCO and Potomac River Basin Drinking Water Source Protection Partnership meetings and activities.
- Provided source water protection signage to public water system's municipalities and non-highway areas.

In 2009, WVDHHR implemented a secure website that provides information essential source water protection information such as wellhead and source water delineated areas, location of public water supply wells and potential contaminant sources. This secure website is available to WVDHHR staff, water utilities, state emergency management and federal agencies.

The Source Water Assessment and Protection (SWAP) Program evaluates new PWS water wells or intakes to assure they are located in areas where contamination threats are minimal. Permits for new public water wells now require an initial survey for potential sources of contamination within 2,000 feet of proposed well location with site-specific information used when available.

An expression of interest (EOI) contract for implementing wellhead and source water protection activities for community water supplies was awarded to two vendors for work in WVDHHR District Offices in St. Albans, Wheeling, Beckley and Kearneysville areas.

WVDHHR signed a contract with the U.S. Geological Survey (USGS), West Virginia Department of Environmental Protection (WV DEP) and West Virginia Geological Survey to study the hydrologic flow in abandoned coal mines in McDowell County.

WVDHHR continues to support the WV DEP Project WET (Water Education for Teachers) by loaning groundwater models out for public education which includes a summer water workshop for educators and youth ages 5-18.

Action Items

The state needs to continue working towards the national 2011 goal which states that 50% of CWS and associated population should be protected through substantial implementation of source water protection strategies.

EPA would like to be kept informed of Source Water Protection Technical Help Program (SWPTHP) contract work progress.

Data Management/Data Analysis

WVDHHR continues to submit quarterly updates and cooperate to alleviate data problems.

With the change to the new Enforcement Targetting Tool (ETT) in July 2010, the criteria for becoming a priority system has changed. There is a new scoring systems and systems that scores above 10 are considered a national priority. The last SNC report was FY10Q1. Another change was the naming convention, after FY10Q1, the ETT started calling the quarterly reports by month and year. Here are the #'s.

	FY10Q1	July 2010 ETT	October 2010 ETT	January 2011 ETT
# of PWS	118	144	135	126
# of Viols.	Unavail	3796	3989	6636

Region 3 made a commitment, for all states, to EPA HQ to address the SNCs from the July 2010 SDWIS data pull. The Region Commitment was to address 500 systems and WV's commitment was to address 160 out of the 500. The last SDWIS data pull from January 2011 shows that WV addressed 70 systems, which is approximately 44% addressed.

During the week of July 7, 2008, EPA assisted in an on-site data verification at WVDHHR's Central Office in Charleston, WV. The state files were very well organized and the support from the state personnel was excellent. A draft report was shared with WVDHHR in October 2008. EPA and WVDHHR discussed details of the report and combined comments were incorporated into the final report that was received by EPA Region III in December 2008 and shared with the state.

Concern

One major concern is implementation for Stage 1 DBPR and LT1 ESWTR which were noted in the report as not being fully implemented by the state. Discrepancies noted for these two rules are for compliance determinations for monitoring and reporting. The state attributes its problems in compliance determinations to a lack of staff and failure to inform compliance officers that they could utilize SDWIS State web release 1.0 (SSWR1) to compute compliance determinations. The compliance determination tool had not been working correctly in SDWIS/State. Since the state did not have the manpower to manually do calculations to determine compliance, violations were not issued.

Action Plan

To address this concern, EPA is providing an in-kind service contract via DWSRF 10% SetAside to provide various training and develop SOPs (standard operating procedures) for WVDHHR staff on SDWIS-State and NPDWR. The contract will assist WVDHHR with addressing discrepancies from the 2008 on-site data review as well as developing a strategy to fully implementing both rules.

Action Item

The work assignment was approved April 2011. EPA will schedule kick-off meeting with WVDHHR and ^{Confidential Business Info} contractor in near future.

Annual Compliance Reports

WVDHHR submitted its Annual Compliance Report (ACR) for 2009 in October 2010. This report provides much more detail than in the past (i.e., graphs for each rule showing violation trends over the past seven (7) years). This detail information will help identify program focus areas.

Laboratory Certification

EPA issued its Annual Certification Status Report of WVDHHR's Drinking Water Laboratory Certification Program on December 22, 2009 for the 2010 calendar year. The state laboratory retains certification for analytical methods of inorganic contaminants (except Asbestos, Cyanide and Thallium), lead and copper contaminants and microbiological techniques. EPA has requested that WVDHHR provide proof of SDWA certification coverage for these parameters.

EPA's Environmental Science Center (ESC) recently updated the listing of key analytical capabilities for primacy based on the Code of Federal Regulations (CFR) with input from the EPA Office of Ground Water and Drinking Water in Cincinnati and the Region 3 Water Protection Division. This listing is in the Lab Certification Manual as an appendix (Appendix E). The revised listing was shared with the Primary State Laboratory (PSL) Directors and with the State SDWA Program Managers.

Highlight

WVDHHR identified a need for its PSL to be certified to test for Disinfection Byproducts. The state had not had the equipment to test for these contaminants previously. However, EPA agrees with the state that it would be beneficial to have the PSL capable of providing certified results especially if a water system lab is having difficulties or unexplained results that could affect water quality. EPA approved the state's request for \$500,000 which will be taken from the 15% Set-aside to purchase the equipment. The state lab will provide the normal maintenance and expense to operate the lab equipment.

Quality Management Plan (QMP)

WVDHHR's Drinking Water Program QMP is valid until December 2015.

Operator Certification Program

Program Review

On September 30, 2011, EPA approved the implementation of WVDHHR's Operator Certification Program. Each year a determination is made as to whether the state's program meets EPA guidance. This determination influences the decision to withhold 20% of the state's Drinking Water State Revolving Fund capitalization grant.

Highlights

WVDHHR solicited the assistance of a review committee to conduct an external review on the implementation of their Program. The external review is a requirement of the Operator Certification Guidelines and must be performed by an entity outside of the state program agency. This can be a contractor/consultant, board or committee of stakeholders, etc. A final report was submitted to EPA. Some noteworthy findings of the committee are:

- WVDHHR was commended for the thoroughness of its exam validation process. Utilizing stakeholders to improve this area strengthens the program.
- Recommendation was made to limit the grace period for expired certifications from 1 year to 30 or 60 days. The liability of a water utility employing operators with expired licenses should be considered as well as the issue of promoting professionalism.
- The state's database was commended for its capacity to obtain pertinent information regarding the certified operators in the state.
- The mailing list for the Drips & Drops Newsletter should include the legally responsible authority of each water utility, not just the operator. This would help improve communication to council and public service district (PSD) board members.

Although state budgets nation-wide have affected travel dollars each year to attend workshops and training, WVDHHR continues to show support through attendance at various EPA forums, i.e., the 2010 National Joint Program Conference for Operator Certification and Capacity Development and the EPA/State Eastern Regional Operator Certification Program Workshops. This reflects the state's commitment to improving the implementation of this Program.

Planning has begun for the next EPA/State Eastern Regional Operator Certification Program Workshop, hosted by Region 5. The theme is sustainability in economically challenging times.

EPA requests that states provide as a "minimum" more quantitative information that allows for an evaluation of progress, for example: reports addressing activities from the previous reporting

period; notes from stake holder meetings and other events; action items and outcomes; and quantitative data such as –

- 1.# of public water systems and/or % of systems in compliance with having a certified operator;
- 2.passing rate of examinations;
- 3.compliance rate for continuing education and certification renewal (i.e., are operators meeting requirements on time, what's the percentage or number of operators who allow their licenses to lapse);
- 4.discussion of issues, (i.e., reasons for non-compliance and plans to address those issues);
- 5.types of training/exercises provided (provide # of operators taking advantage of training made available or total # of hours of training provided and;
- 6.technical assistance to prepare operators for security threats like pandemic flu and new rules.

Details of the minimal content for reporting will be provided in the Reporting Reminder letter to the states in May.

Schedule Reminder

Annual Operator Certification Report is due June 30, 2012.

